@))

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9922 of 1995

For Approval and Signature:

HON'BLE MR.JUSTICE H.K.RATHOD

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

AHMEDABAD MUNICIPALITY CORPN.

Versus

MUKESH BANSILAL KAYASTH

Appearance:

1. Special Civil Application No. 9922 of 1995

MR D.C.RAVAL for M/S ANAND ADVOCATES

for Petitioner No. 1

MR KV GADHIA for Respondents

CORAM : HON'BLE MR.JUSTICE H.K.RATHOD

Date of decision: 21/01/2004

ORAL JUDGEMENT

Heard learned advocate Mr. D.C.Raval for petitioner and learned advocate Mr. K.V.Gadhia appearing

on behalf of the respondents.

2. In the present petition, the petitioner has challenged the interim order passed by the Industrial Tribunal, Ahmedabad in Complaint No. 140 of 1995 in Reference No. 400 of 1994 vide Exhibit-2 dated 6.11.1995. This Court, at the time of issuing rule on 23.11.1995 passed the following order:

"Rule returnable by 13.12.1995. Mr. Gadhia may file reply on or before 13.12.1995.

It has been argued that an interim order has been passed by the Industrial Tribunal, Ahmedabad staying the ensuing recruitment on the post of Assistant Manager to be held by the Municipal Corporation by a blanket order in the proceedings in a complaint filed under S.33A of the Industrial Disputes Act, 1947 and it is submitted that the controversy, which has been raised in this complaint, has nothing to do with any of the items, for which the Reference is pending. In the facts and circumstances of this case, by way of interim relief it is directed that the operation of the impugned order Annexure"D" dated 6.11.1995 shall remain stayed. Direct service is permitted."

3. In pursuance to the interim order passed by this Court, staying the operation of impugned order Annexure"D" dated 6.11.1995 and interim order passed by the Tribunal, naturally, the interim order passed by the Tribunal having no legal effect. Learned advocate Mr. D.C.Raval has submitted that, thereafter, post in question has been filled up by the Corporation and now nothing remain further. Therefore, considering this aspect, according to my opinion, by passage of time and because of the interim order passed by this Court staying the operation of the interim order passed by the Tribunal and, subsequently, the post in question has been filled up, this petition has now become infructuous. Accordingly, present petition is disposed of as having become infructuous. Rule is discharged. No order as to costs.

(H.K.Rathod,J)

Jayanti*